Guilty, By The Rules Of Evidence

By William F. Buckley Jr.

I SUPPOSE IF Jack Ruby had enough free lawyers bobbing about him, plus a phony civil liberties' committee, plus half the native egghead population desperate to believe him innocent, they would have us all believing, in due course, that he didn't in fact kill Lee Harvey Oswald: that it was his double; or else a plot by the networks; or by Curtis Lemay.

When you think of it, it is hard to get unanimity of opinion on the guilt of anybody. It is an old story nowadays that Oswald didn't kill the first Kennedy, a not-so-old but robust thesis that Sirhan didn't kill the second Kennedy; there is growing suspicion that James Earl Ray didn't kill Martin Luther King, that what's-his-name wasn't the real culprit in the attempted killing of George Wallace, that Bruno Hauptmann didn't really kidnap the Lindbergh baby, that the Rosenbergs weren't really guilty; that the people who were hanged for it weren't really accomplices of John Wilkes Booth — on back through Dreyfus, to Socrates himself (who was in fact guilty under Athenian law).

All the more useful, under the circumstances, an article of overwhelming sobriety published in the current issue of Commentary magazine. It is called very simply, "Was Alger Hiss Guilty?" and it could have been written by a computer, so dry and factual is it, so obsessively concerned to drain every last bit of bias out of the recounting of the story.

IN FACT IT IS written by a professor of law at Cornell, Irving Younger, who had served as an attorney in private practice and as an assistant United States attorney and as judge in both the civil and criminal courts in New York City. Mr. Younger has taught Evidence at both Columbia and New York law schools and he says that the question: was Alger Hiss guilty? requires, finally, that you the juror take a position concerning 10 contradictions on which Hiss and Chambers gave conflicting evidence that emerged from the sea of testimony.

Mr. Younger concludes that in respect of the first five the evidence is moot: you cannot find against Mr. Hiss without reasonable doubt. The sixth weighs in favor of Hiss. The seventh, eighth, ninth, and tenth convict Hiss.

Number seven was the famous rug, given by Chambers to Hiss as an expression of gratitude from the Communist Party. Independent testimony confirms that the rug was bought, and accepted by Hiss. Hiss' explanation of his possession of it was unreasonable beyond a reasonable doubt.

THE EIGHTH WAS the matter of Hiss's giving Chambers $400 to buy a second-hand car. The records reveal that Hiss withdrew $400 in cash four days before Chambers paid $400 in cash for a car. Coincidence is unreasonably strained, given the surrounding narrative, by insisting that the two transactions were discrete.

The ninth was the earlier transfer of Hiss' old Ford, which he desired philanthropically to donate for the general use of a Communist operative. Hiss said he gave the car to Chambers. The records show that Hiss himself signed a transfer assigni title to the Cherner Motor Co. which ther upon reassigned the car to one Willi Rosen, but left the transaction out of t record books. William Rosen, summoned the stand, refused to say whether he was Communist.

We approach Gotterdammerung, nam ly the typewriter. A huge amount of publi ty has been given to the typewriter, t insinuated assumption among pro-Hi people being that either Whittaker Cha bers himself forged the typewriter, or e that the Federal Bureau of Investigati did. Every time there is a press conferer on the matter, it is suggested that any d now it will be established that the typewr er presented at the trial was a forgery. H any day has a way of never coming.

WHAT IS ESPECIALLY tantalizi about it all is that preposterous though it it wouldn't actually alter the matter if happened to be so. Because what nail Hiss was the indisputable identity betwe the typewriter used in the mid-thirties Priscilla Hiss to write letters to Bryn Ma on alumnae business, and the typewri used during the same period to write pa phrases and copies of secret State Depa ment documents turned over to Chamber

Perhaps the next step is for one of Al Hiss' lawyers to claim that Whitta Chambers posed as the secretary of t Bryn Mawr Alumnae Association in 193 the purpose of ambushing Hiss in 194 have no doubt there are many peo around who would be [illegible]

CINCINNATI ENQUIRER AUG 10, 1975